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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,220	06/01/2006	Hans Kodden	NL03 1409 US1	1671

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
TEATERS, LINDSEY C	
ART UNIT	PAPER NUMBER
4184	
MAIL DATE	DELIVERY MODE
12/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/581,220	KODDEN ET AL.	
	Examiner	Art Unit	
	LINDSEY C. TEATERS	4184	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 June 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *06/01/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Section headings such as Background of the Invention, Summary of the Invention, Brief Description of the Drawings, and Detailed Description of the Drawings should be incorporated into the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-4, 6-7, and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winstanley et al (WO 2004/098360 A1) in view of Dawes (US 4,988,019), cited by applicant.

Re claim 1:

Winstanley et al teaches a beverage making device (100, figure 1) comprising a brewing chamber (110, figures 1 and 4) for enclosing one or more pads containing a substance from which the beverage is to be brewed (page 4, lines 17-18, specification), means for supplying water to the brewing chamber (page 4, lines 18-21, specification), and means for conducting the brewed beverage from the brewing chamber (404, figure 1).

Winstanley et al fails to teach that the means for conducting the brewed beverage from the brewing chamber is characterized by squeezing the pad. Dawes, however, teaches squeezing a beverage pad as a means of conducting a brewed beverage from a brewing chamber (column 4, lines 16-22, specification, see also figure 4).

In view of Dawes' teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to squeeze the pad as a means of conducting the brewed beverage from the brewing chamber, taught by Winstanley et al. Squeezing the pad to release brewed beverage has been a manual technique in the brewing arts for many years, and it also is a means to drain the pad free of liquid so that when it is removed from the brewing chamber it is sufficiently dry not to make a mess.

Re claim 2:

Winstanley et al also teaches that the brewing chamber has an upper wall (see figure 3) and a lower wall (bottom of 401, figure 4), and that the pad can be located between the upper and lower wall (page 8, lines 13-14 and 20, specification), characterized by a means for temporarily

reducing the distance between the upper and lower wall (closing and locking the upper wall to the lower chamber, see brewhead stature change from figure 3 to figure 1).

Re claim 3:

Winstanley et al also teaches that the wall of the brewing chamber comprises a portion that can move into the brewing chamber after the brewing has taken place (upper wall, figure 3, can be lowered and sealed to upper surface 304 creating the brew chamber, the upper wall then considered to be protruding into the brewing chamber).

Re claim 4:

Winstanley et al also teaches that the lower wall of the brewing chamber can be moved upwards (page 9, lines 3-5, specification, the pod is removed by vertically lifting the pod holding apparatus [lower wall included] out of the brew chamber).

Re claim 6:

Winstanley et al also teaches that the upper wall of the brewing chamber is a part of a lid (see figure 3) that can be lifted to open the brewing chamber (page 9, lines 3-5, specification) and that the lid together with the upper wall can move downwards before the lid is moved upwards to open the brewing chamber (page 8, lines 12-14, specification, the lid can be closed from an open state and then reopened).

Re claim 7:

Winstanley et al also teaches that the lid can hinge about a horizontal axis in order to open the brewing chamber (see figure 3).

Re claim 9:

Winstanley et al also teaches that the central portion of the upper wall is extended in a downward direction (see figure 3).

Re claim 10:

Winstanley et al teaches a method of making a beverage by means of a device comprising a brewing chamber (110, figures 1 and 4) for enclosing one or more pads (page 4, lines 17-18, specification) containing a substance from which the beverage is to be brewed (page 4, lines 17-18, specification), means for supplying water to the brewing chamber (page 4, lines 18-21, specification), and means for conducting the brewed beverage from the brewing chamber (404, figure 1)

Winstanley et al fails to teach that the means for conducting the brewed beverage from the brewing chamber is characterized by squeezing the pad. Dawes, however, teaches squeezing a beverage pad as a means of conducting a brewed beverage from a brewing chamber (column 4, lines 16-22, specification, see also figure 4).

In view of Dawes' teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to squeeze the pad as a means of conducting the brewed beverage from the brewing chamber, taught by Winstanley et al. Squeezing the pad to release brewed beverage has been a manual technique in the brewing arts for many years, and it also is a means

to drain the pad free of liquid so that when it is removed from the brewing chamber it is sufficiently dry not to make a mess.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winstanley et al (WO 2004/098360 A1) in view of Dawes (US 4,988,019), cited by applicant, as applied to claim 2 above, and further in view of Cai (US 2003/0096038 A1), cited by applicant.

Re claim 5:

Winstanley et al, as modified by Dawes, fails to teach that the distance between the upper and lower walls increases due to fluid pressure in the brewing chamber during the brewing process. Cai, however, teaches a brewing process where the distance between the upper and lower walls of a chamber expand due to fluid pressure during the brewing process (paragraph [0005] lines 14-21).

In view of Cai's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to have the walls of the brewing chamber, taught by Winstanley et al, as modified by Dawes, expand under the pressure of the brewing fluid. Allowing the walls to expand under the pressure of the brewing fluid is more efficient for the benefit of the mechanical integrity of the structure. Otherwise, the chamber still wants to expand, while the casing of the apparatus must apply a reactive force to keep it stationary.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winstanley et al (PCT/US04/13725) in view of Dawes (US 4,988,019), cited by applicant, as applied to claim 7 above, and further in view of Tagawa (US 2002/0008447 A1).

Re claim 8:

Winstanley et al, as modified by Dawes, teaches a latch mechanism to keep the brewing chamber closed (page 8, lines 12-13, specification, and see 106, figure 1).

Winstanley et al, as modified by Dawes, fails to teach that the latch can be released when the lid is pressed downwards. Tagawa, however, teaches that a latch can be released when a lid is pressed downward (paragraph [0035], see figure 4).

In view of Tagawa's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to release the latch, taught by Winstanley et al, as modified by Dawes, when the lid is pressed downward. This type of closure allows for an internal type of lock, where no pieces are exposed to the exterior of a product, which is easy to use and aesthetically pleasing.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Webster et al (US 2007/0295220 A1) teaches the brewing chamber structure as well as the expansion of the upper and lower walls under fluid pressure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSEY C. TEATERS whose telephone number is 571-270-

5913. The examiner can normally be reached on Mon-Thurs 8:30am-6:00pm :: alternating Fri 8:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jared Fureman can be reached on 571-272-2391. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LINDSEY C TEATERS/
Examiner, Art Unit 4184

/Jared J. Fureman/
Supervisory Patent Examiner, Art Unit 4184

12/11/2008